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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,896	06/07/2005	Philip L. Eardley	36-1905	8426
23117 7590 10/03/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
HALKY, TRAVIS B				
ART UNIT		PAPER NUMBER		
4121				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,896

Applicant(s)

EARDLEY, PHILIP L

Examiner

TRAVIS HALKY

Art Unit

4121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/ISD)
Paper No(s)/Mail Date 11/21/2005
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Specification

Title

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Claim 10 is objected to because of the following informalities: Claim 10 depends from itself and should depend from claim 9. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 11 is directed to "a digital data carrier." Applicant does not further define this in the specification. A transitory, propagating signal, as those sent over optical or electronic communications links, is not "process, machine, manufacture, or composition of matter." Those four categories define the explicit scope and reach of subject matter patentable under 35 U.S.C. §101; thus, such a signal cannot be patentable subject matter. See *In re Nuijten*, 500 F3d 1346, 84 USPQ2d 1495 (2007).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Karino et al. (U.S. Patent No. 7,327,671).

With respect to claim 1 and 11, Karino teaches a method of routing packets in a packet network, said packet network including a chain of packet nodes, said chain comprising first and second access nodes for communicating with one or more mobile nodes (Fig. 17 BS2 and BS3), and one or more intermediate packet nodes, said one or more intermediate packet nodes providing a path interconnecting said first and second access nodes, (Fig. 17 R4, R2 and R5), said method comprising the steps of: installing, in said intermediate packet nodes, first routing data defining a first routing path in one direction along said chain to a mobile node via said first access node (Fig. 17 routing path R2->R4->BS2; Col. 32 line 23-29 original communication route), and second routing data defining a second routing path in the opposite direction along said chain to said mobile node via said second access node; (Fig. 17 routing path R2->R5->BS3; Col. 32 line 23-29 alternate communication route), operating each of said intermediate packet nodes to: determine, on receipt of a packet destined for said mobile node, whether said packet is from another node on said chain or not; (determine branch point,

col. 33 lines 22-28; if the node is the branch point then it received a packet not on the chain), and a) if the packet is determined to be from a node not on said chain, copying the packet and routing said copy along one of said routing paths and routing said packet along the other of said routing paths; (Fig. 17 (2) sends packet one direction and (5) copy in the other direction), and b) if the packet is determined to be from another node on said chain, route said packet along said chain only in the direction in which it is currently travelling. (Fig. 17 (3) sends packet in currently traveling direction).

With respect to claim 2, Karino teaches wherein said packet (s) include (s) a unique address of the mobile node. (col. 2 line 1 packet addressed to mobile node (MH)).

With respect to claim 3, Karino teaches wherein said unique address is the same before and after a handover of the mobile node from the first access node to the second access node. (col. 33 lines 10-12, The bicast router adds the received packet addressed to the mobile host MH but does not change the MH address in the packet).

With respect to claim 5, Karino teaches wherein said first routing data are installed prior to the handover of said mobile node from said first access node to said second access node. (Fig. 17 routing path R2->R4->BS2; Col. 32 line 23-29 original communication route installed before alternate communication route R2->R5->BS3).

With respect to claim 6, Karino teaches wherein said second routing data include data indicating that said second routing data relates to the handover of said mobile node from said first access node to said second access node. (col. 33 lines 22-28, branch point receiving message defines alternate communication route and is indicative

of a handoff between originally communication route and alternate communication route).

With respect to claim 7, Karino teaches wherein said second routing data are installed in response to a routing control message generated at said second access node and transmitted to said first access node. (Col. 30 line 60-col. 31 line 45, adjacent communication establishing message from BS3 to BS2).

With respect to claim 8, Karino teaches wherein said first access node and said second access node are wireless access nodes and wherein said packets are sent to and received from said mobile node via a wireless transmission system. (Fig. 17 wireless base stations BS2 and BS3 communicating to mobile node MH via wireless transmission, shown as (4) and (7)).

With respect to claim 9, Karino teaches a packet network including a chain of packet nodes, said chain comprising: first and second access nodes for communicating with one or more mobile nodes; (Fig. 17 BS2 and BS3), and one or more intermediate packet nodes providing a path interconnecting said first and second access nodes ; (Fig. 17 R4, R2 and R5), said intermediate packet nodes having installed therein first routing data defining a first routing path in one direction along said chain to a mobile node via said first access node (Fig. 17 routing path R2->R4->BS2; Col. 32 line 23-29 original communication route), and second routing data defining a second routing path in the other direction along said chain to said mobile node via said second access node (Fig. 17 routing path R2->R5->BS3; Col. 32 line 23-29 alternate communication route), each intermediate packet node being arranged in operation to determine, on receiving a

packet destined for said mobile node, whether said packet is from another node on said chain or not (determine branch path, col. 33 lines 22-28; if the node is the branch point then it received a packet not on the chain), and a) if the packet is determined to be from a node not on said chain, copying the packet and routing said copy along one of said routing paths and routing said packet along the other of said routing paths; (Fig. 17 (2) sends packet one direction and (5) copy in the other direction), and b) if the packet is determined to be from another node on said chain, route said packet along said chain only in the direction in which it is currently traveling. (Fig. 17 (3) sends packet in currently traveling direction).

With respect to claim 10, Karino teaches packet node for use in a packet network according to claim 10 (*sic.* [9]). (Fig. 17 R4, R2 and R5),

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karino as applied to claim 3 above, and further in view of O'Neill.

With respect to claim 4, Karino teaches all the elements as applied to claim 3 above except for the operating steps 4a, 4b and 4c. However, O'Neill operating each node in the packet network: a) to associate a routing value with said unique address;

(Fig. 26 own height), b) responsive to the receipt of said packet at said node to forward said packet towards another node having a lower routing value associated with said unique address; (Page 13 lines 18-19, packet is directed from higher node to lower node), c) responsive to the creation of a wireless link between a mobile node having said unique address and said node to reduce said routing value associated with said unique address to a lower value than that associated with said unique address by the other nodes in said network (Page 18 lines 15-16, when a mobile node changes BS affiliate it decreases its height value relative to the other nodes). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains to modify the handoff method and system of Karino with the node level information tracking of O'Neill in order to more effectively operate a wireless system during handoffs.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baba et al (U.S. Patent Application Publication No. 2002/0141360) discloses a method for soft handoffs in a CDMA system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAVIS HALKY whose telephone number is 571-270-5699. The examiner can normally be reached on Monday through Thursday 8:30 to 6:00 and every other Friday 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Robertson can be reached on 571-272-4186. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. H./
Examiner, Art Unit 4121

/DAVID L. ROBERTSON/
Supervisory Patent Examiner
Art Unit 4121